IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Second Appeal No. 781 of 2001
(Old No. 136 of 1991)

Gaon Sabha, Dausni
Pragana Manglaur
Tehsil Roorkee
District Haridwar
Through its Pradhan ....Appellant

Vs

1. Ram Sharan
2. Shiv Charan
3. Rajendra
   S/o Sri Ramjas
   R/o Village Dausni Pargana Manglaur
   Tehsil Roorkee
   District Hardwar ....Respondent

Sri J.P. Joshi, learned Standing Counsel for the State

Hon'ble B.C. Kandpal, J.

This second appeal has been preferred by the appellant against the judgment and decree dated 26.10.1990 passed by Additional Civil Judge, Roorkee in Civil Appeal No. 81 of 1982 arising out of the judgment and decree dated 07.09.1987 passed by Munsif, Roorkee in Original Suit No. 127 of 1979.

2. Brief facts of the case are that the plaintiff/respondents filed a suit for permanent injunction before the Munsif, Roorkee which was decreed in favour of the plaintiff/respondents vide judgment and decree dated 07.09.1982.

3. Feeling aggrieved by the aforesaid judgment and decree, the defendant/appellant preferred an appeal before the first appellate court which was dismissed vide judgment and decree dated 26.10.1990.

4. Feeling aggrieved by the aforesaid judgments and decree, the appellant/defendant preferred an appeal before the Allahabad High Court which has been transferred to this Court after creation of separate State.

5. Heard Sri J.P. Joshi, learned counsel for the appellant and perused the record.

6. Having considered the arguments advanced by the learned Standing Counsel for the State and after perusal of the evidence on record, I am of the view that, this second appeal is concluded by concurrent finding of facts, I, therefore, do not find any ground to interfere in the impugned judgments and order passed by the courts below. Both the courts below have recorded concurrent finding of fact, which cannot be interfered at the stage of second appeal. I also do not find any substantial question of law involved in this case.

7. The second appeal lacks merit and is liable to be dismissed.

8. Accordingly, the second appeal is dismissed in-limine.

(B.C. Kandpal, J.)

11.12.2006
ASWAL